



ELANE ROBERTS
Columbus, Ohio

December 29, 2006

KRYS T. BART
Reno, Nevada

JAMES P. ELWOOD
Aspen, Colorado

JOHN K. DUVAL
Boston, Massachusetts

R. Lowell Pratt
Louisville, Kentucky

WILLIAM G. BARKHAUER
Morristown, New Jersey

STEPHEN J. ADAMS, JR.
Manchester, New Hampshire

LORIL BECKMAN
Denver, Colorado

JAMES E. BENNETT
Washington, D.C.

RANDALL D. BERG
Salt Lake City, Utah

BENJAMIN R. DECCOSTA
Atlanta, Georgia

KEVIN A. DILLON
Manchester, New Hampshire

BRYAN O. ELLIOTT
Charlottesville, Virginia

LINDA G. FRANKL
Columbus, Ohio

MICHAEL J. HANEY
Moline, Illinois

GARY L. JOHNSON
Stillwater, Oklahoma

PAULA JORDAN
DFW Airport, Texas

ALEXM. KASHANI
Washington, D.C.

PARKER W. MCCLELLAN
Orlando, Florida

MICHAEL A. MUSCA
Modesto, California

ROBERT P. OUSLAGERS
Englewood, Colorado

JEANNE M. OLIVIER
New York, New York

LISA A. PYLES
Addison, Texas

GARY T. RICE
Santa Maria, California

MIKE D. SHAHAN
Denison, Texas

BERN E. CASE
Medford, Oregon

GARY T. RICE
Santa Maria, California

DAVID N. EDWARDS
Fletcher, North Carolina

BRADLEY D. PENROD
Pittsburgh, Pennsylvania

ROBERT H. WORKING
Evansville, Indiana

THELLA F. BOWENS
San Diego, California

MARK P. BREWSTER
Warwick, Rhode Island

TIMOTHY L. CAMPBELL
Baltimore, Maryland

CHERYL D. COHEN-VADER
Denver, Colorado

LARRY D. COX
Memphis, Tennessee

ALFONSO DENSON
Birmingham, Alabama

KEVIN C. DOLLIGLE
St. Louis, Missouri

KENT G. GEORGE
Pittsburgh, Pennsylvania

MICHAEL A. GOBB
Lexington, Kentucky

CHARLES J. IDELL
Philadelphia, Pennsylvania

THOMAS J. KINTON, JR.
Boston, Massachusetts

MARK D. KRANENBURG
Oklahoma City, Oklahoma

LYNN F. KUSY
Mesa, Arizona

ERN M. O'DONNELL
Chicago, Illinois

MORTON V. PLUMB
Anchorage, Alaska

MARK M. RES
Seattle, Washington

LESTER W. ROBINSON
Detroit, Michigan

JAMES R. SMITH
Newport News, Virginia

CHARLES M. BARCLAY
Alexandria, Virginia

Docket Management Facility
U.S. Department of Transportation
400 Seventh Street, S.W.
Nassif Building
Room PL-401
Washington, D.C. 20590-0001

RE: Congestion Management Rule for LaGuardia Airport (Docket Number FAA-2006-25709)

Dear Sir or Madam:

On behalf of the American Association of Airport Executives (“AAAE”), I am submitting comments to the Federal Aviation Administration’s (“FAA”) notice of proposed rulemaking (“NPRM”) for congestion management at New York’s LaGuardia Airport (“LGA”) as set forth in the *Federal Register* notice of August 29, 2006, “Congestion Management Rule for LaGuardia Airport,” 71 *Federal Register* 51360 (August 29, 2006). AAAE appreciates the opportunity to provide comments on this important rulemaking regarding the manner in which capacity at LGA will be managed in the foreseeable future.

AAAE, founded in 1928, is the largest professional organization in the world for airport management personnel, representing over 5000 men and women at primary air carrier, commercial service, reliever and general aviation airports, together that enplane 99 percent of the traveling public in the United States. Our membership has a keen interest in the FAA’s proposal to manage congestion and the anticipated growth of commercial air passengers at all of our Nation’s airports.

As noted in the FAA’s NPRM, when Congress enacted the Wendell H. Ford Aviation Investment and Reform Act of the 21st Century, Pub. L. 106-181 (April 5, 2000), it specifically called for the elimination of the high density rule (“HDR”) at LGA by January 1, 2007. 49 U.S.C. §41715. The accompanying conference report to the final legislation was very specific in the meaning of this section, “[s]lot restrictions at New York are eliminated after January 1, 2007.” *See*, Conference Report to accompany H.R. 100, the Wendell H. Ford Investment and Reform Act for the 21st Century, Report 106-513, March 8, 2000. Although the statute is specific in the abolition of the HDR, we are concerned that the proposal maintains a slot allocation system that appears to be inconsistent with the Congress’ intent in eliminating the HDR.

The NPRM seeks to replace the slots of the HDR with a new system of “Operating Authorizations” (“OAs”), which will be controlled by the FAA. The proposed rule preserves government regulation and essentially fails to produce a market based approach

to congestion management. As we noted in our comments to the FAA's initial inquiry on policy options for managing capacity at LGA, Docket Number FAA-2001-9854, AAAE prefers a "market-based solutions to administrative solutions." *See*, AAAE Comments to FAA's Alternative Policy Options for Managing Capacity at LaGuardia Airport, June 20, 2002. As we further noted, "market-based solutions tend to be more predictable than administrative solutions and, in the long-term, result in the greatest overall satisfaction in the market. Market-based solutions may not be the best options, however, where there are artificial constraints on the marketplace or where market-based outcomes are likely to conflict with public policy." *Id.* As the FAA has noted, and we acknowledge as well, LGA presents a unique set of circumstances because the reality is that the expansion of capacity is a scarce resource at the airport. As such, the market is severely limited and it requires a balance of economic and administrative allocations to ensure that access to that capacity is fairly apportioned.

As we noted in our June 2002 comments, AAAE is committed to ensuring some level of access to LGA for smaller communities. Access through LGA to the national airspace system is an important consideration. While the rule attempts to recognize this, we believe that tools being proposed to the situation at LGA will be detrimental to small communities that currently enjoy and seek to increase their access to the airport.

To encourage the efficient use of the OAs, the FAA proposes to require air carriers to meet an airport-wide average aircraft size target. The proposed target range would be aircraft with 105 to 122 seats, depending on the alternatives provided for service to small and non-hub airports. While the FAA notes that there are a number of frequent services to medium and large sized hub airports using smaller aircraft, such as regional jets, we are concerned that this average size requirement will severely affect, if not eliminate, service to some smaller communities, particularly those that are in the small hub category. For these airports, we believe that these communities will not have a viable business case to an airline to serve their community because they cannot make a profitable yield factor on a larger aircraft. To incorporate a larger aircraft into the small community business model lessens the probability of attractive yields. As a result, air service to these communities are likely to diminish if not be eliminated. It should be noted that the concerns about air service are not limited to small and non-hub airports. There are medium hub airports that would also be affected by this proposed average aircraft size target.

We believe that this situation is further compounded by the FAA's proposal to reallocate 10 percent of the OAs on an annual basis. This further discourages air carriers to serve smaller community markets because the carriers will seek to minimize the risk by maximizing the number of passengers flown for any OA. Accordingly, the carriers will increase their flight offerings to LGA between larger markets with greater demand, decreasing their service to smaller communities with a lesser demand.

We commend the FAA for recognizing the need to serve small communities, consistent with the goals of legislation like AIR-21 and other legislative and regulatory programs. The NPRM proposes three options for setting aside a limited number of OAs for use to small communities. These three options are:

1. Create a pool of OAs for service to non-hub airports;
2. Create a pool of OAs for service to non-hub and small hub airports within 300 miles of LGA; or
3. Create a pool of OAs for service to non-hub and small hub airports within 300 miles of LGA that have existing service as of October 1-6, 2006.

The options proposed by the FAA are troubling in a number of respects. Option 1, while preserving service to non-hub communities by its limitation, essentially eliminates service to small hub airports. While small hub airports could conceivably obtain service from an air carrier operating through another OA that is not reserved for small communities, we believe that it is unlikely that small hubs would retain service, as the main OAs are subject to the average aircraft size requirement. As noted above, the economics of that requirement will almost assuredly end air service for small hub airports to LGA. Options 2 and 3, with the application of a perimeter rule sets an arbitrary perimeter rule, which if implemented, also terminates service to small and non-hub airports that lie beyond that perimeter. Today, there are small and non-hub airports that currently have air service to LGA, and these are communities beyond 300 miles of LGA. While an argument could be made that these communities could be served by air carriers with the other OAs, again, the economics of the average aircraft size requirement make it unlikely that an air carrier will use those OAs to serve these smaller markets.

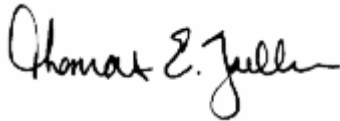
Overall, the NRPM seems to establish a scheme which will result in the increase of service to fewer and larger communities at the cost of service to smaller communities. Over the last few reauthorization cycles, the Congress and the Administration have consistently sought to increase competition of air service by encouraging diversity of the marketplace, such as the earlier exemptions to the HDR for service to small communities and for new entrant carriers. The NPRM, while perhaps not intentioned, seems to return to a system that rewards legacy carriers and larger communities.

The FAA distinguishes the congestion management approach to LGA from the congestion management scheme at Chicago's O'Hare International Airport. Most notably, the FAA states that the most significant distinguishing feature is that the O'Hare rule of operational limitations is a short-term solution until new runways and runway configurations are finally implemented in Chicago. By contrast, the FAA notes that this NPRM is more permanent for LGA. FAA studies continue to demonstrate that many of our Nation's largest metropolitan areas will need additional capacity by 2018. The New York metropolitan area is one of those areas that the FAA has identified. *See*, "Capacity Needs in the National Airspace System: An Analysis of Airport and Metropolitan Area Demand and Operational Capacity in the Future," June 2004. In addition, in the FAA's own Airport Capacity Benchmark Report 2004 identified at least one air traffic procedural change that could improve arrival rates to LGA. In the Capacity Benchmarks Report 2001, the FAA identified several other procedural and technological improvements that could be implemented at LGA, including the use of Land and Hold Short. The FAA should consider revisiting these options, as well as seeking to accelerate promising technologies, such as ADS-B, that could increase capacity and efficiency at LGA, as well as throughout the National Airspace System.

While the circumstances at LGA may necessitate the extraordinary measures outlined in the NPRM, AAAE reaffirms its position that the only real solution to aviation congestion and delays, that does not penalize communities or economic growth, is to expand capacity at the Nation's airports. New runways, by the FAA's own standards and metrics, are projected to add from 30 to 60 percent additional capacity. Since October 2003, only 6 new runways have been constructed and opened. A healthy and robust Airport Improvement Program and Passenger Facility Charge program are the essential tools for increasing airport capacity throughout the Nation. As the FAA prepares to enter into another reauthorization period with the 110th Congress, AAAE urges the FAA to ensure that the AIP program continues to be funded at the robust levels enjoyed over the last few years. AAAE will continue to work with the FAA, the DOT and the Administration in asking the Congress to maintain the record levels of investment for airports and the national airspace system.

AAAE remains committed to building an aviation infrastructure that will accommodate the growing demand for air service, which the FAA has forecasted to be serving 1 billion passengers by 2015. Constructing a system capable of handling that demand is critical, not only for aviation, but for the national economy as a whole. While the FAA needs to take steps to ensure that service to LGA and the NAS is not compromised by unnecessary congestion and delay, we hope that such measures will be interim steps until such time as new capacity can be acquired through technology and pavement.

Respectfully submitted,

A handwritten signature in black ink, reading "Thomas E. Zoeller". The signature is written in a cursive style with a large, looped initial "T".

Thomas E. Zoeller
Vice President for Regulatory Affairs